

**AMENDMENT TO THE DRAWINGS**

The attached sheets (page numbers 4/8 and 6/8) of drawings replace the original sheets including FIGS. 4, 5 and 7. In the amendment, the reference numeral 31 has been deleted.

Attachment: Replacement Sheets

## **REMARKS**

### **Introduction**

Claims 1 and 4-7 are pending, of which claim 1 is independent. Claims 2-3 have been cancelled without prejudice.

Claims 1 and 4-7 have been amended to correct informalities in the claim language and to more clearly define the claimed subject matter. Claim 1 has been amended so as to incorporate the subject matter of claims 2 and 3. Accordingly claims 2 and 3 have been canceled. No new matter has been entered.

Applicants respectfully request that the Examiner indicate acknowledgement of a claim for foreign priority under 35 U.S.C. § 119 by marking an appropriate box in Form 326 in the next official communication.

### **Objections**

The Examiner objected to the drawings because the reference character 31 is not mentioned in the specification. Applicants respectfully submit that the amendment made to the drawings overcomes this objection.

### **Rejection under 35 U.S.C. §112, second paragraph**

Claim 4 was rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Examiner asserts that the term “tubular” should mean “cylindrically shaped passage” and may not be used to mean “hollow” without so defining in the specification. Applicants respectfully submit that the specification clearly mentions that the term “tubular” includes a tubular shape having

a rectangular sectional shape. In this regard, the Examiner's attention is directed to page 7, lines 7-15 of the specification stating "[t]he bracket 4 or the fixing portion of the liquid level detection unit 3 has a tubular shape. In this embodiment, this tubular member has a rectangular sectional shape." Amended claim 4 also clearly recites that tubular members have a rectangular sectional shape. Accordingly, Applicants respectfully request that the Examiner withdraw the rejection of claim 4.

### **Rejection under 35 U.S.C. §102**

The Examiner rejected claims 1, 2 and 6 under 35 U.S.C. § 102(b) as being anticipated by Ohtani (USP 4,825,695). Specifically, the Examiner asserts that Fig. 2A of Ohtani discloses a fuel tank cover body comprising a cover [1m], liquid level detection unit [2, 3], and fixing portion [1b, 1c, 1d, 1e], such that cover and fixing portion are formed integrally as a resin, as recited by claim 1.

Applicants respectfully submit that Ohtani fails to disclose that the fixing portion has tubular members or tubular members having a rectangular sectional shape as recited by amended claim 1 (see, Fig. 2 of the present application). As such, it is clear that, at a minimum, Ohtani fails to disclose the above discussed limitations of claim 1.

The Examiner also rejected claims 1-3, 6 and 7 under 35 U.S.C. § 102(b) as being anticipated by Johnson (USP 4,574,631). Specifically, the Examiner asserts that Johnson discloses a fuel tank cover body comprising a cover [7], liquid level detection unit [1, 2], and fixing portion [6], such that the cover and fixing portion are formed integrally as a resin, as recited by claim 1. With regard to claims 2 and 3, the Examiner further asserts

that Johnson discloses a fixing portion including two plate portions [6] connected by a connecting portion formed of the material inside the tubular part of [7]. Further, with regard to claims 6 and 7, the Examiner asserts that Johnson discloses that the cover body has guide portions mating with connecting protruding walls [5] of the liquid level detection unit for contacting the liquid level detection unit [1, 2]. With regard to claim 5, the Examiner asserts that a portion (top of [7]) protrudes from the middle of the cover. Applicants disagree.

It is noted that Johnson fails to disclose a connecting portion and a fixing portion having a tubular shape because the same cover [7] of Johnson cannot be both the connecting portion and the fixing portion at the same time. Also, the shape of the cover [7] is not tubular as required by amended claim 1. Applicants also respectfully submit that with regard to claims 6 and 7, the Examiner fails to specify guide portions and guided portions in Johnson. Further, Applicants submit that Johnson fails to disclose the limitations of claim 5 since a center point of said cover is not located in such a projected portion of said fixing portion. As such, it is clear that, at a minimum, Johnson fails to disclose the above discussed limitations of claims 1 and 5-7.

Further, the Examiner rejected claims 1-4, 6, and 7 under 35 U.S.C. § 102(b) as being anticipated by Tsuda (USP 6,138,524). With regard to Claim 1, the Examiner asserts that Tsuda discloses a fuel tank cover body comprising a cover [3b], liquid level detection unit [11a], and fixing portion [3a, 3c], such that cover and fixing portion are formed integrally as a resin. With regard to claims 2-4, the Examiner asserts that Tsuda discloses that the fixing portion includes two plate portions (supporting parts 10b of Fig. 1) connected by a connecting portion formed of the material inside the tubular part of

[3c], which has a rectangular sectional shape. Further, with regard to claims 6 and 7, the Examiner asserts that Tsuda discloses the cover body has guide portions having protruding portions [10b] mating with connecting protruding walls [10a] of the liquid level detection unit for contacting the liquid level detection unit [11a].

Applicants respectfully submit that a fixing portion of the claimed subject matter requires two or more tubular portions (members) to prevent the fixing portion from deformation as recited by claim 1. In contrast, Tsuda fails to disclose tubular members comprising two plate portions and connecting portions connecting the two plate portions. As such, it is clear that, at a minimum, Tsuda fails to disclose the above discussed limitation of claim 1.

To anticipate, every element and limitation of the claimed subject matter must be found in a single prior art reference, arranged as in the claims. *Brown v. 3M*, 265 F.3d. 1349, 60 USPQ2d 1375 (Fed. Cir. 2001). At a minimum, the cited prior art does not disclose expressly or inherently the above discussed limitation of claim 1. Thus, Applicants respectfully request that the Examiner withdraw the rejection of claim 1. Since claims 2-3 and 4-7 depend upon claim 1, these claims are also allowable for at least the same reasons as claim 1.


**CONCLUSION**

Having fully responded to all matters raised in the Office Action, Applicants submit that all claims are in condition for allowance, an indication for which is respectfully solicited. If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, the Examiner is requested to call Applicants' attorney at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP

  
s/ Stephen A. Becker  
Registration No. 26,527

600 13<sup>th</sup> Street, N.W.  
Washington, DC 20005-3096  
Phone: 202.756.8000 SAB:TS:lnm  
Facsimile: 202.756.8087  
**Date: December 15, 2008**

**Please recognize our Customer No. 20277  
as our correspondence address.**